

EA



# UNITED STATES PATENT AND TRADEMARK OFFICE

UNITED STATES DEPARTMENT OF COMMERCE  
 United States Patent and Trademark Office  
 Address: COMMISSIONER FOR PATENTS  
 P.O. Box 1450  
 Alexandria, Virginia 22313-1450  
 www.uspto.gov

APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.	CONFIRMATION NO.
10/654,779	09/04/2003	Blyth S. Biggs	03-0830	5493
7590	06/10/2005		EXAMINER	
Herbert C. Schulze # 274 2790 Wronde Way Reno, NV 89502			JACKSON, ANDRE L	
			ART UNIT	PAPER NUMBER
			3677	

DATE MAILED: 06/10/2005

Please find below and/or attached an Office communication concerning this application or proceeding.

# Office Action Summary

Application No.

10/654,779

Applicant(s)

BIGGS, BLYTH S.

Examiner

Andre' L. Jackson

Art Unit

3677

-- The MAILING DATE of this communication appears on the cover sheet with the correspondence address --

## Period for Reply

A SHORTENED STATUTORY PERIOD FOR REPLY IS SET TO EXPIRE 3 MONTH(S) FROM THE MAILING DATE OF THIS COMMUNICATION.

- Extensions of time may be available under the provisions of 37 CFR 1.136(a). In no event, however, may a reply be timely filed after SIX (6) MONTHS from the mailing date of this communication.
- If the period for reply specified above is less than thirty (30) days, a reply within the statutory minimum of thirty (30) days will be considered timely.
- If NO period for reply is specified above, the maximum statutory period will apply and will expire SIX (6) MONTHS from the mailing date of this communication.
- Failure to reply within the set or extended period for reply will, by statute, cause the application to become ABANDONED (35 U.S.C. § 133). Any reply received by the Office later than three months after the mailing date of this communication, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

## Status

- 1) ☒ Responsive to communication(s) filed on 23 March 2005.
- 2a) ☒ This action is **FINAL**. 2b) ☐ This action is non-final.
- 3) ☐ Since this application is in condition for allowance except for formal matters, prosecution as to the merits is closed in accordance with the practice under *Ex parte Quayle*, 1935 C.D. 11, 453 O.G. 213.

## Disposition of Claims

- 4) ☒ Claim(s) 1-4 is/are pending in the application.
- 4a) Of the above claim(s) \_\_\_\_\_ is/are withdrawn from consideration.
- 5) ☐ Claim(s) \_\_\_\_\_ is/are allowed.
- 6) ☒ Claim(s) 1-4 is/are rejected.
- 7) ☐ Claim(s) \_\_\_\_\_ is/are objected to.
- 8) ☐ Claim(s) \_\_\_\_\_ are subject to restriction and/or election requirement.

## Application Papers

- 9) ☐ The specification is objected to by the Examiner.
- 10) ☐ The drawing(s) filed on \_\_\_\_\_ is/are: a) ☐ accepted or b) ☐ objected to by the Examiner.  
Applicant may not request that any objection to the drawing(s) be held in abeyance. See 37 CFR 1.85(a).  
Replacement drawing sheet(s) including the correction is required if the drawing(s) is objected to. See 37 CFR 1.121(d).
- 11) ☐ The oath or declaration is objected to by the Examiner. Note the attached Office Action or form PTO-152.

## Priority under 35 U.S.C. § 119

- 12) ☐ Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d) or (f).
- a) ☐ All b) ☐ Some \* c) ☐ None of:
1. ☐ Certified copies of the priority documents have been received.
2. ☐ Certified copies of the priority documents have been received in Application No. \_\_\_\_\_.
3. ☐ Copies of the certified copies of the priority documents have been received in this National Stage application from the International Bureau (PCT Rule 17.2(a)).

\* See the attached detailed Office action for a list of the certified copies not received.

## Attachment(s)

- 1) ☐ Notice of References Cited (PTO-892)
- 2) ☐ Notice of Draftsperson's Patent Drawing Review (PTO-948)
- 3) ☐ Information Disclosure Statement(s) (PTO-1449 or PTO/SB/08)  
Paper No(s)/Mail Date \_\_\_\_\_.
- 4) ☐ Interview Summary (PTO-413)  
Paper No(s)/Mail Date. \_\_\_\_\_.
- 5) ☐ Notice of Informal Patent Application (PTO-152)
- 6) ☐ Other: \_\_\_\_\_.

## DETAILED ACTION

### Claim Rejections - 35 USC § 102

The following is a quotation of the appropriate paragraphs of 35 U.S.C. 102 that form the basis for the rejections under this section made in this Office action:

A person shall be entitled to a patent unless –

(b) the invention was patented or described in a printed publication in this or a foreign country or in public use or on sale in this country, more than one year prior to the date of application for patent in the United States.

Claims 1-4 are rejected under 35 U.S.C. 102(b) as being anticipated by USPN 6,199,245 to Blessing. Blessing (Fig. 11) discloses a lawn and garden hand tool (20) comprising;

a first straight segment covered by a first hand grip (26); a first curved segment depending from the first straight segment; a second straight segment (32) depending from the first curved segment; a second curved segment (U-shaped bend) depending from the second straight segment; a third straight segment depending from the second curved segment; a second hand grip (22) carried by the third straight segment; a third curved segment (inverted U-shaped bend) depending from the third straight segment; a fourth straight segment (30) depending from the third curved segment; and utility tool attachment means (30a) carried by the fourth straight segment.

As to claims 2 and 3 the first, second and a third (24) hand grip sleeve member provided are shaped to conform to a user's fingers. The utility tool attachment means includes a telescoping relationship to the fourth straight segment as seen in Fig. 11(col. 5, lines 32-34).

As to claim 4, the tool handle design of Blessing allows a user to apply a maximum downward pressure while exerting a maximum pulling pressure depending upon the utility implement used. In this case, Blessing discloses a raking implement as seen in Fig. 21.

### **Response to Applicant's Arguments**

Applicant's arguments filed in the Amendment of March 23, 2005 have been fully considered but they are not persuasive. Applicant's remarks presented on page 4, fifth paragraph, state that the prior art relied upon (Blessing) fails to disclose or suggest a maximum pulling power does not exist. Further, applicant relies on Figs. 4a and 4b as an illustrative example of the missing utility function described above encompassing newly recited limitations in applicant's claim 4 as claimed. Here, applicant does not consider the specified embodiment the Examiner relies upon to make the rejection as set forth above. Clearly, the Examiner relies upon a modified embodiment shown in figure 11 and column 5, lines 31-39 of the disclosure of Blessing that meets all of the limitations claimed by applicant, where a maximum pulling power exerted by a user is achieved by the particular utility implement (Fig. 21) that can be attached to multi-component handle illustrated in Fig. 11, not Figs. 4a and 4b where a utility implement attached to the handle performs a lifting function as stated in applicant's remarks.

Further, applicant rationalizes a further difference between applicant's claimed invention and the multi-component handle of Blessing by stating that Blessing fails to disclose or suggest curved segments as defined by Merriam-Webster Dictionary. Here too, applicant hinges his remarks on a first embodiment of Blessing utilizing a plurality of pivot joints (Fig. 5) or "angular connected straight sections" as described by applicant to provide an adjustment feature handle. Clearly, the embodiment shown in Fig. 11 defines curved as well as straight segments as claimed and the ergonomic multi-component handle of Blessing discloses a combination of curves and straight segments as set forth in applicant's claims allowing the power of a user when working to maximize downward pressure and maximize pulling force as claimed.

Art Unit: 3677

Therefore, for the foregoing reasons above, the Examiner believes all of applicant's remarks have been addressed and applicant's claims are found to be unpatentable over Blessing.

### **Conclusion**

**THIS ACTION IS MADE FINAL.** Applicant is reminded of the extension of time policy as set forth in 37 CFR 1.136(a).

A shortened statutory period for reply to this final action is set to expire **THREE MONTHS** from the mailing date of this action. In the event a first reply is filed within **TWO MONTHS** of the mailing date of this final action and the advisory action is not mailed until after the end of the **THREE-MONTH** shortened statutory period, then the shortened statutory period will expire on the date the advisory action is mailed, and any extension fee pursuant to 37 CFR 1.136(a) will be calculated from the mailing date of the advisory action. In no event, however, will the statutory period for reply expire later than **SIX MONTHS** from the mailing date of this final action.

Any inquiry concerning this communication or earlier communications from the examiner should be directed to Andre' L. Jackson whose telephone number is (571) 272-7067. The examiner can normally be reached on Mon. - Fri. (9:30 am - 6 pm).

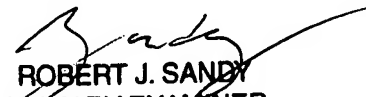
If attempts to reach the examiner by telephone are unsuccessful, the examiner's supervisor, Judy J. Swann can be reached on (571) 272-7075. The fax phone number for the organization where this application or proceeding is assigned is 703-872-9306.

Art Unit: 3677

Information regarding the status of an application may be obtained from the Patent Application Information Retrieval (PAIR) system. Status information for published applications may be obtained from either Private PAIR or Public PAIR. Status information for unpublished applications is available through Private PAIR only. For more information about the PAIR system, see <http://pair-direct.uspto.gov>. Should you have questions on access to the Private PAIR system, contact the Electronic Business Center (EBC) at 866-217-9197 (toll-free).

André L. Jackson  
Patent Examiner  
AU 3677

ALJ

  
ROBERT J. SANDY  
PRIMARY EXAMINER